

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

THOMAS CARL CALKINS,)	CASE NO. 1:12-CV-1454
)	
Plaintiff,)	JUDGE ADAMS
)	
v.)	MAGISTRATE JUDGE VECCHIARELLI
)	
MICHAEL J. ASTRUE,)	
Commissioner of Social Security,)	
)	
Defendant.)	REPORT AND RECOMMENDATION

This case is before the undersigned United States Magistrate Judge pursuant to an automatic referral under [Local Rule 72.2\(b\)](#). As discussed below, Plaintiff has failed to comply with the Court's Order, has failed to timely file his brief in this matter, and has not shown good cause for his failure to do so. Accordingly, the Magistrate Judge recommends that this case be dismissed without prejudice.

I. Background

On June 8, 2012, Plaintiff Thomas Carl Calkins ("Plaintiff"), *pro se* and *in forma pauperis*, filed his Complaint against the Commissioner of Social Security ("Commissioner"). (Doc. No 1.) On June 19, 2012, this Court mailed Plaintiff a copy of the Magistrate Judge's Initial Order, which, in pertinent part, requires a Plaintiff to file his brief within 60 days after the Commissioner files the answer and transcript. (Doc. No. 7 at 2; entry at 06/19/2012.) On August 27, 2012, the Commissioner filed the Answer and Transcript of Proceedings. (Doc. Nos. 11, 12.) Plaintiff failed to file his brief within 60 days after that date. On November 1, 2012, this Court issued an order directing Plaintiff to file his brief, or to show cause for his failure to do so, on or before Thursday,

November 15, 2012. (Doc. No. 13.) To date, Plaintiff has not complied with the Court's order.

II. Discussion

Rule 16(f)(1)(C) of the Federal Rules of Civil Procedure authorizes this Court to dismiss an action where a party fails to comply with a "scheduling or other pretrial order." The Initial Order in this case advised Plaintiff that failure to file his brief within 60 days after the filing of the answer and transcript could result in dismissal for want of prosecution without further notice. (Doc. No. 7 at 2.) The order to show cause instructed Plaintiff to file his brief, or show good cause for his failure to do so, by November 15, 2012. Plaintiff has neither filed his brief nor shown good cause for his failure to do so. Accordingly, the Magistrate Judge recommends that this case be dismissed without prejudice for failure to comply with this Court's orders and for failure to prosecute this case.

s/ Nancy A. Vecchiarelli
U.S. Magistrate Judge

Date: November 19, 2012

OBJECTIONS

Any objections to this Report and Recommendation must be filed with the Clerk of Court within fourteen (14) days after the party objecting has been served with a copy of this Report and Recommendation. [28 U.S.C. § 636\(b\)\(1\)](#). Failure to file objections within the specified time may waive the right to appeal the District Court's order. See [United States v. Walters, 638 F.2d 947 \(6th Cir. 1981\)](#); [Thomas v. Arn, 474 U.S. 140 \(1985\), reh'g denied, 474 U.S. 1111 \(1986\)](#).